



To: Workforce System

From: Regina Ashley, Chief Strategy Officer
Josh Richardson, Chief Operating Officer

Date: July 22, 2016

Subject: DWD Policy 2016-01
Dislocated Worker Guidance for Category "A" Eligibility

Purpose

To provide the workforce system additional state clarification on Dislocated Worker eligibility as it pertains to Workforce Innovation and Opportunity Act (WIOA) participant funding.

Rescission

DWD TAB 2010-04

References

WIOA Sec. (3)(15), 134
NPRM 680.130, 680.660
TEGL 31-14

Content

Dislocated worker, as defined in WIOA sec. 3(15), outlines five criteria for which an individual is eligible to receive WIOA funding. The majority of the questions with which the state has received requests for clarity pertain to Section 15(A) of the Dislocated Worker Definition, outlined below.

The term “dislocated worker” means an individual who—

A.

(i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;

(ii)

(I) is eligible for or has exhausted entitlement to unemployment compensation; OR

(II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 121(e), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law;

AND

(iii) is unlikely to return to a previous industry or occupation; [Emphasis Added]

Previous Occupation/Industry

For the purposes of WIOA dislocated worker program eligibility, the previous occupation or industry relates directly to the job of dislocation, not the most recent job if it is considered intervening or stopgap employment (described in more detail below). The job of dislocation is the job that qualifies the individual under one of the dislocated worker definition eligibility categories. The previous occupation or industry should be established by the individuals work history provided in his/her application and supported with any other applicable documentation to satisfy the data validation requirements.

Intervening or Stopgap Employment

Intervening or stopgap Employment describes work that an individual accepts, either prior to or during participation in WIOA services, for the purpose of income maintenance because they have lost the customary work for which their training, experience, and work history qualifies them. Employment would be considered intervening or stopgap if the salary were substantially below the salary of the individual’s previous occupation and/or if they are working substantially under the skill level of their previous occupation (determined at the local level). However, intervening or stopgap employment may constitute a new primary occupation/industry in circumstances where the individual has not made any verifiable efforts to seek more permanent and appropriate employment and has been employed in intervening or stopgap employment for an extended amount of time (determined at the local level). The previous occupation or industry should be established by the individuals work history provided in his/her application and supported with any other applicable documentation to satisfy the data validation requirements.

Look-Back Period

Historically, the “look-back period” was used to limit the amount of time an applicant could qualify as a dislocated worker after they were dislocated from their previous industry/occupation. The vision of WIOA supports more integrated and comprehensive dislocated worker services. This vision is furthered by the Sector Partnership National Emergency Grants (SP-NEG) which support the use of sector partnerships to create effective sector strategies to advance and complement dislocated worker services. The SP-NEGs place a strong emphasis on serving those individuals who are long-term unemployed. The look-back period, as it currently exists, may inhibit the ability to serve those long-term unemployed individuals who may otherwise be eligible for dislocated worker services. Therefore, the mandatory look-back period for dislocated workers under Title I of WIOA has been eliminated. Local workforce development boards who choose to set such a limit as part of their local policies are permitted to do so. Please note, previous work history will still need to be provided and validated to determine if the individual qualifies for dislocated worker services.

Long-term Unemployed

As mentioned above, the SP-NEGs place a focus on targeting outreach and services to dislocated worker populations with additional barriers or challenges to reemployment, including individuals who are long-term unemployed. The state has adopted the federal definition of long-term unemployed. A person is considered to be long-term unemployed if they have not worked for twenty-seven (27) or more weeks in aggregate over the past year. An individual who is determined to be long-term unemployed must still meet the eligibility criteria of the dislocated worker definition in order to qualify for dislocated worker services.

Profiled Unemployment Insurance Claimants

All recipients who receive either a RESEA or JFH letter will automatically qualify for dislocated worker services under WIOA sec. 3(15)(A). These recipients have already been identified as being laid off (i), eligible for unemployment insurance (ii), and unlikely to return to a previous industry/occupation (iii). The only documentation needed for verification is the RESEA or JFH letter.

Veterans

A military service member who has separated from Armed Forces with a discharge that is anything other than dishonorable qualifies for dislocated worker services under WIOA Sec. (15)(A) when the appropriate data validation requirements are met. A notice of separation, a DD-214 from the Department of Defense, or other documentation showing separation or imminent separation from the Armed Forces satisfies the “termination from employment” eligibility criteria. The separating service member is also considered by the Department of Labor to have exhausted unemployment compensation and unlikely to return to previous industry or occupation. A separated military service member will only qualify for dislocated worker services under his/her separated military service member status until he/she obtains a

new primary occupation as established by his/her available work history (no limit). Stopgap or intervening employment will not disqualify a separated military service member from receiving dislocated worker services. A military service member who has been discharged under a dishonorable discharge would not qualify as a dislocated worker, but may still qualify under WIOA adult.

Effective Date

July 22, 2016

Ending Date

Upon rescission.

Contact for Questions

policy@dwd.in.gov